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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/565,180

04/05/2007

Volker Gandert

10191/4029

9258

26646 7590 09/03/2008

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EXAMINER

LEUNG, KA CHUN A

ART UNIT

PAPER NUMBER

3747

MAIL DATE

DELIVERY MODE

09/03/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/565,180 | Applicant(s) GANDERT, VOLKER | |
| | Examiner Ka Chun Leung | Art Unit 3747 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to Applicant's amendment filed on 06/23/2008.

Information Disclosure Statement

2. On Page 5 of the Applicant's Remarks, the Applicant notes a copy of the references that were not previously considered have been provided with the amendment. However, these copies do not appear to be present in the IFW (Image File Wrapper). A copy of JP 05-310119 and DE 33 03 455 have now been attached and cited in form PTO-892. WO 99/50112 was previously cited as an equivalent to EP 1 066 181.

Specification

3. Applicant's amendment to the specification has been accepted.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Salecker et al

5. Claims 8-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salecker et al (GB 2 317 660 A) as cited in the previous Office Action.

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6. Claims 15-122 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salecker et al (GB 2 317 660 A).

7. Specifically regarding Claim 15, the steps of Salecker et al proceeds from block 102 to 106 if the gear box is not in neutral. At block 105 starter release is provided and at block 106 the engine is started. Since the blocks are followed from one to the next without other inputs and the engine is started at block 106 after the starter release is provided at block 106, this process can be considered as "automatically starting the engine". Additionally, the brakes activated by the steps of Salecker et al would be released at least by the point when the vehicle is actually driven.

8. Specifically regarding Claim 16, block 102 performs the task of determining whether the gear box is in neutral.

9. Specifically regarding Claim 17, block 104 opens the clutch and block 105 provides a starter release after the clutch has been opened.

10. Specifically regarding Claim 18, referring to the "push start" described in the previous Office Action, the driver would personally authorize the starting of the engine by turning the ignition switch once the vehicle is in gear and in motion in order to start the vehicle without the aid an engine starter (i.e. dead battery).

11. Specifically regarding Claim 19, Salecker et al discloses on Page 9, Lines 28-35 that a starter release is provided if the neutral position is engages within a predefined time length of 0.1 to 10 seconds. If a starter release is not provided, the engine is not automatically started. Additionally, the brakes activated by the steps of Salecker et al would be released at least by the point when the vehicle is actually driven.

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12. Specifically regarding Claim 20, block 102 performs the task of determining whether the gear box is in neutral.

13. Specifically regarding Claim 21, block 104 opens the clutch and block 105 provides a starter release after the clutch has been opened.

14. Specifically regarding Claim 22, referring to the "push start" described in the previous Office Action, the driver would personally authorize the starting of the engine by turning the ignition switch once the vehicle is in gear and in motion in order to start the vehicle without the aid an engine starter (i.e. dead battery).

Balz et al

15. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Balz et al (WO 99/50112) as cited in the previous Office Action.

Response to Remarks/Arguments

16. Applicant's arguments, see Page 5, filed 06/23/2008, with respect to Claim 9 rejected under 35 U.S.C. § 112 have been fully considered and are persuasive. The rejection of Claim 9 has been withdrawn.

17. Applicant's arguments filed 06/23/2008 have been fully considered but they are not persuasive. The Applicant has amended base claim 8 to recite "a checking arrangement to check, in the event of a starting command, as to whether the vehicle is stationary" and asserts that neither Salecker et al., the "push start method", nor the general method of starting a manual transmission vehicle discloses nor suggests the

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above claimed feature. The Applicant further asserts in the case of the general method of starting a manual transmission vehicle that "accidents will occur when drivers miscalculate whether the vehicle is stationary and whether braking is necessary".

18. While the occurrence of accidents is definitely a possibility, the steps recited are nevertheless practiced and the claims do not require the steps to be fail safe or completely free of accidents. Regarding the claimed limitation of providing a "checking arrangement", given the broadest reasonable interpretation a human body (i.e. the vehicle operator) can be considered as a "checking arrangement" since it is capable of determining whether the vehicle is stationary or in motion.

Conclusion

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

20. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ka Chun Leung whose telephone number is (571)272-9963. The examiner can normally be reached on 7:30AM - 4:30PM.

22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Cronin can be reached on (571) 272-4536. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

23. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ka Chun Leung/
Examiner, Art Unit 3747

/Stephen K. Cronin/
Supervisory Patent Examiner, Art Unit 3747